IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.28 OF 2007

M/s.Solapur Motor Stores & Anr. ..Applicants.

V/s.

Shri Baban Gopalrao Mokashi & Ors. ..Respondents.

Mr.G.R.Rege for S.M.Raikar for applicants.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 12, 2007.

P.C. :

1. Heard counsel for the applicants.

2. Indeed, it is unfortunate case that the plaintiffs having succeeded in getting decree for possession, but are denuaded from enjoying the fruits of the same on account of non-filing of execution application within period of limitation. The argument that the applicants acquired knowledge of the decree only in 1997 after noting was made by the Deputy Registrar on 21st October, 1997 is unacceptable. The Court below has rightly taken into account the date of the order passed by the Court as 3rd September, 1993 and four weeks therefrom, on which date the order of dismissal of second appeal came into being as a result of which decree had

become enforceable. Admittedly, there was no stay during the relevant period. All these are relevant consideration. There is no error much less manifest error. Hence not a case for interference.

3. The argument of the counsel for the applicants that in view of the language of Article 136 of the Limitation Act, it is possible to take the view that date of knowledge of the decree would be the relevant date and not when the same became enforceable, cannot be countenanced. Hence dismissed.